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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,664	05/11/2001	Kenji Dosaka	107348-00102	5105
4372	7590	01/15/2004		
ARENT FOX KINTNER PLOTKIN & KAHN 1050 CONNECTICUT AVENUE, N.W. SUITE 400 WASHINGTON, DC 20036				
EXAMINER MAYEKAR, KISHOR				
ART UNIT		PAPER NUMBER		
1753				

DATE MAILED: 01/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
09/852,664	DOSAKA ET AL.	
Examiner	Art Unit	
Kishor Mayekar	1753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 4 and 8 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 5-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4 & 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1, 3 and 4 stand rejected under 35 U.S.C. 103(a) as being unpatentable over CONRAD (5,211,919), for reasons as of record.
3. Claims 1, 3 and 4 stand rejected under 35 U.S.C. 103(a) as being unpatentable over KAMIYA et al. (5,549,874), for reasons as of record.
4. Claims 1, 3 and 4 stand rejected under 35 U.S.C. 103(a) as being unpatentable over DUARTE (5,554,344) in view of KAMIYA '874, for reasons as of record.

5. Claims 1, 3, 4 and new claim 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over KIESER et al. (5,746,051). KIESER's invention is directed to a device for detoxifying exhaust fumes from mobile equipment. KIESER discloses in Fig. 1 that the device comprises all the structures as claimed. The difference between KIESER and the above claims is the method of operating the device with the limitation of the recited average current density. The subject matter as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified KIESER's teachings because the manner in which an apparatus operates is not germane to the issue of patentability of the apparatus itself. *Ex parte Wikdahl* 10 USPQ 2d 1546 (BPAI 1989); *Ex parte McCullough* 7 USPQ 2d 1889 (BPAI 1988); *In re Finterswalder* 168 USPQ 530 (CCPA 1971); *In re Casey* 152 USPQ 235 (CCPA 1967).

As to the subject matter of claim 8, KIESER discloses it in col. 3 lines 19-25 and col. 4, lines 16-18.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over CONRAD '919, KAMIYA '874 or DUARTE '344 as modified by KAMIYA '874 as applied to claims 1, 23 and 4 above, and further in view of KIESER '051. The

further difference between the reference(s) as applied above and the instant claim is the use of the reactor to remove exhaust gas emitted from an automobile. KIESER as applied above further discloses in col. 1, lines 12-32 that the reactor is used for the ozonization and the reducing of harmful substances in combustion exhaust fumes. The subject matter as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the reference(s)'s teachings as shown by KIESER because of the interchangeable of the device is known.

Response to Arguments

7. Applicant's arguments filed October 20, 2003 have been fully considered but they are not persuasive.

In response to Applicant's arguments that the references fail to disclose or suggest the recited average current density, first, because the average current density is not a structure of the device, the recited limitation of the average current density cannot be given any patentable weight; and second, because the average current density is the parameter of the process limitation, the recited

limitation of the average current density cannot be given any patentable weight as asserted by the Examiner in the first Office action.

In response to Applicant's argument to the rejection of claim 4, the rejection stands because it satisfies the recited limitation when the amount *a* is equal to zero.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kishor Mayekar whose telephone number is (571) 272-1339. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen can be reached on (571) 272-1342.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1300.



Kishor Mayekar
Primary Examiner
Art Unit 1753